

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to salvage titles

The Transportation Department hereby amends Chapter 400, “Vehicle Registration and Certificate of Title,” and Chapter 405, “Salvage,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321.52 as amended by 2021 Iowa Acts, Senate File 230, section 1.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.52 as amended by 2021 Iowa Acts, Senate File 230, section 1.

Purpose and Summary

This rule making updates Chapters 400 and 405 to conform these rules with 2021 Iowa Acts, Senate File 230, section 1. This legislation increased the threshold for issuing a salvage title designation if the cost of repair of a wrecked or salvage motor vehicle exceeds 50 percent of the fair market value of the vehicle to instead require the cost of repair to exceed 70 percent of the fair market value. The amendments preserve the “damage over 50 percent” standard in Chapter 405 for wrecked or salvage vehicles that were transferred prior to July 1, 2021, and also clarify the process for when a damage disclosure statement that is separate from the damage disclosure on the assignment of title will be accepted from a transferor or transferee of the vehicle.

The amendments also update parenthetical implementation statutes and remove bureau names.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 1, 2021, as **ARC 6066C**. The public comment period ended on December 21, 2021. The Department received comments from Copart and Insurance Auto Auctions, Inc., and met with them to discuss their concerns.

The amendments published in the Notice of Intended Action provided that the Department would confirm the damage level through the National Motor Vehicle Title Information System (NMVTIS). However, this wording was not entirely accurate because while NMVTIS may provide information about the damage history, it is not the source used to directly determine the vehicle’s damage level. Rather, the damage level of the vehicle is confirmed by using data obtained from the entity with direct knowledge of the damage, which can include the insurance provider or motor vehicle repair facility. For this reason, the Department did not adopt paragraph 400.55(3)“c” and revised paragraph 400.55(3)“b” to remove the previous references to using NMVTIS to confirm the damage level of a vehicle and to instead state that the damage level will be confirmed by reaching out to the entity with direct knowledge of the damage. The Department also added language to clarify that prior Iowa titles or foreign titles issued or designated as salvage, rebuilt or flood are not subject to review under paragraph 400.53(3)“b” because further review or confirmation of damage is not necessary for these designated titles.

The reference to 2021 Iowa Acts, Senate File 230, section 1, in Item 1 has been removed because this legislation has been codified since publication of the Notice. Similarly, Item 8 of the Notice has been removed because it amended the chapter implementation sentence for Chapter 405 by adding a reference to 2021 Iowa Acts, Senate File 230, section 1. Now that this legislation has been codified, there is no need to amend the chapter implementation sentence.

Adoption of Rule Making

This rule making was adopted by the Department on February 8, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond any impact anticipated by the legislation.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on April 13, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—400.55(321) as follows:

761—400.55(321) Damage disclosure statement.

400.55(1) and 400.55(2) No change.

400.55(3) If the transferor completes the damage disclosure on the assignment of title at the time of application for title, a transferor or transferee of a vehicle may submit a separate damage disclosure statement, Form 411108, indicating the damage level of the vehicle and whether the damage level exceeds 70 percent.

a. If the transferor signs both the damage disclosure on the assignment of title and the separate damage disclosure statement, Form 411108, the county treasurer shall accept the separate damage disclosure statement.

b. If the transferee signs the separate damage disclosure statement, Form 411108, the county treasurer shall accept the separate damage disclosure statement only if the separate damage disclosure statement indicates the damage level exceeds 70 percent. If the transferee's statement indicates the damage level is less than 70 percent, and there is no evidence that a prior Iowa title or foreign title was issued or designated as salvage, rebuilt or flood, the department shall review the transaction to confirm the damage level using data obtained from the insurance provider, motor vehicle repair facility, or other entity with direct knowledge of the damage.

This rule is intended to implement Iowa Code ~~section~~ sections 321.52 and 321.69.

ITEM 2. Amend rule **761—405.2(321)**, parenthetical implementation statute, as follows:

761—405.2(321,321H) Definitions.

ITEM 3. Amend subparagraph **405.6(1)“a”(1)** as follows:

(1) Has repair costs exceeding ~~50~~ 70 percent of its fair market value before it became damaged, and

ITEM 4. Amend paragraph **405.6(1)“b”** as follows:

b. Fair market value is the average retail value found in the National Automobile Dealers Association (NADA) Official Used Car Guide. If there is no value available, the motor vehicle and motor carrier services bureau division shall determine the fair market value upon request. The address is: Motor Vehicle and Motor Carrier Services Bureau Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278.

ITEM 5. Amend subrule 405.8(5) as follows:

405.8(5) Designation carried forward. If a vehicle leaves Iowa with a regular Iowa title and reenters Iowa with a regular foreign title, and if the foreign title does not indicate that the vehicle was rebuilt and if a records check indicates that the vehicle had a designation listed in paragraphs 405.10(1)“a” ~~to “e,”~~ through “f,” that designation shall be carried forward to the Iowa title and registration receipt issued from the foreign title.

ITEM 6. Amend subrule 405.9(1) as follows:

405.9(1) Determine if the vehicle ever had or should have had a “prior salvage,” “rebuilt,” “damage over 50 percent,” “damage over 70 percent,” “flood,” “fire,” “vandalism,” “theft,” “lemon buy-back,” or equivalent designation(s) on a previous title. If such a designation is or should have been on a previous title, the Iowa title to be issued shall contain the designation required by this chapter.

ITEM 7. Amend rule 761—405.10(321) as follows:

761—405.10(321,322G) Designations.

405.10(1) The following designations for a vehicle shall be used on Iowa titles and registrations receipts and shall be carried forward to all subsequent Iowa titles and registration receipts issued for the vehicle, unless otherwise specified:

a. and b. No change.

c. Damage over 50 percent. The designation shall be used for applicable vehicle transfers occurring prior to July 1, 2021, and shall be carried forward for applicable vehicle transfers occurring prior to July 1, 2021.

~~e. d.~~ Damage over 50 70 percent. As required by Iowa Code section 321.69, a designation of “damage over ~~50~~ 70 percent” shall be used when the seller or the buyer indicates on the damage disclosure statement that the person has knowledge that the motor vehicle sustained damage for which the cost of the repair exceeded ~~50~~ 70 percent of the fair market value before the motor vehicle became damaged. This designation replaces any other designation except “rebuilt.”

~~d. e.~~ Flood, fire, vandalism or theft. The most recent designation applies. Unless superseded by a “REBUILT-IA,” “rebuilt,” ~~or~~ “damage over 50 percent” or “damage over 70 percent” designation, a designation of “flood,” “fire,” “vandalism” or “theft” shall be used as specified in subrule 405.8(6) and supersedes a “lemon buy-back” designation.

~~e. f.~~ Lemon buy-back. Unless superseded by a “REBUILT-IA,” “rebuilt,” “damage over 50 percent,” “damage over 70 percent,” “flood,” “fire,” “vandalism” or “theft” designation, a designation of “lemon buy-back” shall be used:

(1) and (2) No change.

405.10(2) No change.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/9/22.